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SOAH DOCKET NO. 473-18-3733  
PUC DOCKET NO. 48371

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ENTERGY TEXAS, INC.'S STATEMENT § BEFORE THE STATE OFFICE  
OF INTENT AND APPLICATION FOR § OF  
AUTHORITY TO CHANGE RATES § ADMINISTRATIVE HEARINGS

SOAH ORDER NO. 2  
ADDRESSING MOTIONS TO INTERVENE, SUFFICIENCY OF NOTICE, EFFECTIVE  
DATE, NOTICE OF PREHEARING CONFERENCE AND HEARING, AND  
PROCEDURAL SCHEDULE AND PROCEDURES; SEVERING RATE CASE EXPENSE  
ISSUES AND ESTABLISHING AND ABATING NEW DOCKET

SOAH DOCKET NO. 473-18-4100  
PUC DOCKET NO. 48439

REVIEW OF THE RATE CASE § BEFORE THE STATE OFFICE  
EXPENSES INCURRED IN DOCKET § OF  
NO. 48371 § ADMINISTRATIVE HEARINGS

SOAH ORDER NO. 1  
SEVERING RATE CASE EXPENSE ISSUES AND ESTABLISHING AND ABATING NEW  
DOCKET

The above-styled rate case is now assigned to the undersigned Administrative Law Judges (ALJs). On May 29, 2018, a prehearing conference was held. On May 30, 2018, Entergy Texas, Inc. (Entergy) filed with the Public Utility Commission of Texas (Commission) an agreed motion to adopt prehearing conference agreements (Agreed Motion). This order is consistent with the Agreed Motion.

**I. MOTIONS TO INTERVENE**

Motions to intervene were filed on May 16, 2018, by Texas Industrial Energy Consumers (TIEC); on May 21, 2018, by the Office of Public Utility Counsel; and on May 21, 2018, by The Cities of Anahuac, Beaumont, Bridge City, Cleveland, Conroe, Dayton, Groves, Houston, Huntsville, Liberty, Montgomery, Navasota, Nederland, Oak Ridge North, Orange, Pinehurst, Port Arthur, Port Neches, Roman Forest, Shenandoah, Splendora, Sour Lake, Vidor, and West Orange (Cities). There were no objections to the motions, which are **GRANTED**.

## II. SUFFICIENCY OF NOTICE

On May 15, 2018, Entergy filed with the Commission an application requesting authority to change its base rates (Application). The Application included a proposed method and form of notice. After conferring with Commission staff (Staff), Entergy filed an amended proposed method and form of notice (Amended Proposed Notice) on May 22, 2018. On May 23, 2018, Staff filed a recommendation that the Amended Proposed Notice be found sufficient. No party objected. The Amended Proposed Notice is determined to be sufficient.

## III. EFFECTIVE DATE

In SOAH Order No. 1, the effective date of Entergy's requested rates was suspended from June 19, 2018, until November 16, 2018, to allow sufficient time for a final determination. The procedural schedule states a jurisdictional deadline of December 21, 2018, which indicates a 35-day extension of the effective date. Pursuant to 16 Texas Administrative Code (TAC) §§ 25.241(i) and 22.33(c), the revised effective date is **SUSPENDED** until December 21, 2018, to allow sufficient time for a final determination.

## IV. NOTICE OF PREHEARING CONFERENCE AND HEARING

In its Application, Entergy seeks approval of a total non-fuel retail amount of approximately \$926 million per year, an increase of \$16.7 million, or 1.84% across all customer classes. Including fuel, the request represents an increase of 1.16%. Entergy's proposed rates and revenues reflect the inclusion of federal income tax reductions due to the Tax Cuts and Jobs Act of 2017 (TCJA), and a TCJA Rider that is designed to return approximately \$201.7 million of unprotected excess accumulated deferred federal income taxes over a period of two years. The Application is based on a 12-month test year ending December 31, 2017 (Test Year). Entergy requests inclusion in rate base of capital additions closed to plant in the period of April 1, 2013, through the end of the Test Year, as well as a Post-Test Year adjustment to include capital additions placed in service by

June 30, 2018. Entergy also seeks a rider to provide a pass-through of charges and credits to Entergy under wholesale tariffs approved by the Federal Energy Regulatory Commission.

The Commission has jurisdiction and authority over this proceeding pursuant to Public Utility Regulatory Act (PURA) §§ 14.001, 31.002(6), 32.001, 36.001-36.112, and 36.209-36.211.<sup>1</sup> The State Office of Administrative Hearings (SOAH) has jurisdiction over matters relating to the conduct of the hearing pursuant to Texas Government Code § 2003.049.

The ALJs will convene a prehearing conference at **9:00 a.m., August 23, 2018**, in a SOAH hearing room in the **William P. Clements Office Building, 300 West 15<sup>th</sup> Street, Fourth Floor, Austin, Texas.**<sup>2</sup> The following matters will be discussed:

1. Any objections to prefiled testimony and exhibits that are ripe for ruling;
2. Any pending motion filed by 3:00 p.m. on August 21, 2018, and emailed to SOAH assistant Melissa Ethridge on that day;<sup>3</sup> and
3. Any other matter that may assist in the fair and efficient conduct of the hearing and disposition of this case.

The ALJs will convene the hearing on the merits at **10:00 a.m., August 23, 2018**, in a SOAH hearing room in the **William P. Clements Office Building, 300 West 15<sup>th</sup> Street, Fourth Floor, Austin, Texas.** The hearing will continue on August 24 and 27-31, 2018, and if necessary, on September 4, 2018, unless adjourned on an earlier date. Unless the ALJs indicate otherwise, the hearing will convene at 9:00 a.m. each day after the first day of the hearing.

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<sup>1</sup> Public Utility Regulatory Act, Tex. Util. Code, Title 2.

<sup>2</sup> Those attending the prehearing conference and hearing are advised that they must check in with building security personnel in the lobby of the William P. Clements Building and be issued visitor badges before proceeding to the hearing room. The parties should allow sufficient time for the check-in procedure.

<sup>3</sup> [melissa.ethridge@soah.texas.gov](mailto:melissa.ethridge@soah.texas.gov).

## V. PROCEDURAL SCHEDULE AND PROCEDURES

The following procedural schedule, which is consistent with the Agreed Motion and includes two deadlines added by the ALJs, is **ADOPTED**:

Date	Event
July 13, 2018	Intervention Deadline
July 16, 2018	Objections to Entergy Direct Case
July 23, 2018	Replies to Objections to Entergy Direct Case
August 1, 2018	Intervenor Direct Cases
August 2, 2018	Intervenor Direct Case Workpapers
August 8, 2018	Objections to Intervenor Direct Cases
August 8, 2018	Staff Direct Case
August 9, 2018	Staff Direct Case Workpapers
August 15, 2018	Replies to Objections to Intervenor Direct Cases
August 15, 2018	Objections to Staff Direct Case
August 16, 2018	Deadline for Written Discovery on Entergy Direct Case, Intervenor Direct Cases, and Staff Direct Case
August 16, 2018	Entergy Rebuttal Case and Intervenor/Staff Cross-Rebuttal Cases
August 17, 2018	Entergy Rebuttal Case Workpapers and Intervenor/Staff Cross-Rebuttal Case Workpapers
August 17, 2018	Parties' Requests Regarding Scheduling of their Witnesses
August 20, 2018	Statements of Position Required by 1 TAC § 22.124
August 22, 2018	Replies to Objections to Staff Direct Case
August 22, 2018	Objections to Entergy Rebuttal Case and Intervenor/Staff Cross-Rebuttal Cases
August 22, 2018	Deadline for Discovery on Entergy Rebuttal Case and Intervenor/Staff Cross-Rebuttal Cases (including Depositions on any Issue)
Live at hearing	Replies to Objections to Entergy Rebuttal Case and Intervenor/Staff Cross-Rebuttal Cases
August 23, 2018	Prehearing Conference
August 23-31 and September 4, 2018	Hearing on the Merits (September 4, 2018 is reserved if necessary)
September 12, 2018	Initial Briefs
September 19, 2018	Reply Briefs
October 17, 2018	Relate-back Date per PURA § 36.211
November 19, 2018	Proposal for Decision
December 6, 2018	Commission Open Meeting
December 20, 2018	Commission Open Meeting
December 21, 2018	Jurisdictional Deadline

The Agreed Motion also proposed the following procedures, which are **ADOPTED**:

1. Email delivery is an authorized method of service in this matter;
2. Discovery of testimony drafts is prohibited; and
3. Discovery will be conducted consistent with the requirements in 16 TAC § 22.144, except that:
  - Responses to Requests for Information (RFIs) on Entergy Direct Case are due within 10 working days;
  - Responses to RFIs on Intervenor Direct Cases and Staff Direct Case are due within 4 working days;
  - Responses to RFIs on Entergy Rebuttal Case and Staff/Intervenor Cross-Rebuttal Cases are due within 3 three working days; and
  - For RFIs on Intervenor Direct Cases, Staff Direct Case, Entergy Rebuttal Case, and Staff/Intervenor Cross-Rebuttal Cases, objections are due within 3 days, motions to compel are due within 3 days after receipt of objections, and replies to motions to compel are due within 3 days.

In addition, the ALJs establish the following procedures:


1. The proceeding will occur in two phases, one for revenue requirement and one for rate design. All testimony (including errata, workpapers, etc.) not yet filed and all briefing (including any proposed findings of fact, etc.) on each phase shall be filed separately and labeled on the first page with the appropriate phase to which the testimony or briefing relates. If Entergy has not yet done so, **no later than 14 days after this order is issued**, Entergy shall file a list identifying which parts of its direct testimony address each phase.
2. If any party has a witness who will testify about issues in both phases and, for cost or other reasons, the party wants the witness to present that testimony only once, the party shall file a statement **no later than August 17, 2018**, identifying the relief it requests in that regard. **No later than August 17, 2018**, any party with a witness who has a scheduling conflict shall file a statement identifying the reason for the conflict and the hearing date(s) on which the witness cannot testify. These filings should be short and no written response is required.


3. The ALJs will establish a page or word limit for initial and reply briefs.<sup>4</sup> Entergy shall circulate to the other parties **no later than the first day of the hearing** a proposed issue outline for the parties to use for the briefs. The ALJs will discuss with the parties the limits and outline to use near the end of the hearing.

## VI. RATE CASE EXPENSE ISSUES

On May 23, 2018, Entergy moved to sever from this case all issues related to rate case expenses incurred by Entergy and the Cities in the above-styled rate case. The Agreed Filing states that TIEC is unopposed to Entergy's motion. No other party objected to it. The motion is **GRANTED**. Accordingly, the rate case expense issues are **SEVERED** from the rate case and will be considered in SOAH Docket No. 473-18-4100/PUC Docket No. 48439, which is assigned to ALJ Elizabeth Drews. The current parties to the rate case are also parties to the rate case expense case and need not file a separate motion to intervene. The rate case expense case is **ABATED** until after the Commission order in the rate case is final pursuant to Texas Government Code § 2001.144.

**SIGNED June 8, 2018.**

  
FERNANDO RODRIGUEZ  
ADMINISTRATIVE LAW JUDGE  
STATE OFFICE OF ADMINISTRATIVE HEARINGS

  
ELIZABETH DREWS  
ADMINISTRATIVE LAW JUDGE  
STATE OFFICE OF ADMINISTRATIVE HEARINGS

  
MITTRA FARHADI  
ADMINISTRATIVE LAW JUDGE  
STATE OFFICE OF ADMINISTRATIVE HEARINGS

<sup>4</sup> Briefs should not be lengthy repetition of testimony but rather concise legal argument with correct, complete citations to evidence and law on each issue addressed.